

whatever may be the case in ordinary executions of summonses, executions of diligences, which the law has appointed to be registrate for publication, must fully express all that the law requires to be done. And with respect to the notoriety, it imports nothing whether it was known to all the creditors or not, since notoriety cannot be understood to extend further than the vicinity; and personal creditors lending their money, cannot be supposed to have inquired where their debtor dwelt.

No 24.

*Fol. Dic. v. 3. p. 187. C. Home, No 267. p. 431.*

1745. July 27. DUNBAR and the other Creditors of DUNBAR, competing.

No 25.

WHERE an inhibition is regularly executed, and published against the party, it is no absolute nullity that it is not recorded in the books of every jurisdiction wherein his lands lye, but only *quoad* such lands as lye in a jurisdiction where it is not recorded; but where the inhibition as against the debtor is not duly published, however duly it may be published against the lieges, it will be of no effect whatever; and so it was here found. See this case reported by Lord Kames, No 34. P. 3705.

*Fol. Dic. v. 3. p. 187. Kilkerran, No 6. p. 287.*

1756. November 16. MALCOLM GORY *against* ANDREW DONALDSON.

No 26.

IN a ranking of the creditors of Nairn, it was objected by Donaldson, that an inhibition used by Gory was null, for that the execution of it bore, 'That a copy was fixed upon the door of the debtor's house, after the messenger had made six several knocks as use is, because he could not get the debtor personally;' whereas the 75th act, 6th Parliament, James V. authorises this method of execution in the case only when access to the house cannot be got, or the servants refuse to receive the copy; neither of which this execution bears.

It had been objected, that the execution of an inhibition was null, as it bore that a copy was fixed upon the door of the debtor's house after the messenger had made six knocks, because he could not find the debtor personally; which method of execution is authorised by law only when access cannot be got, or the servants refuse to receive the copy. The objection was repelled.

*Pleaded* for Gory; *imo*, The same objection was made to the execution of a horning 30th July 1696, Sinclair *against* Lord Bargeny, Div. 4. Sec. 7. *b. t.*; and to the execution of an apprising 20th of December 1705, Scrymgeour *against* Beatson, *IBID.*; and was in both cases repelled. As the same act which regulates the form of the execution of hornings and apprisings, regulates the execution of inhibitions, the same judgment ought to be given in this case; more especially as the execution against the lieges was undoubtedly formal and the inhibition registered, so that Donaldson cannot pretend to have contracted *bona fide* with the person inhibited.

*Pleaded* for Donaldson; The decisions are not in point; for that there the execution bore, that the messenger gave six knocks; and this implied that he sought entrance: the execution of inhibitions must be precisely formal; for that by them the preference of creditors is regulated. And therefore an execu-